

REMARKS:

Status of the Claims

Claims 1-70 are pending herein, claims 55-70 having been added above.

Support for new claims 55, 59, 61, 67, 68, 69 and 70 can generally be found, for example, in original claims 2, 4, 8, 21, 24, 34 and 9, respectively.

Support for new claims 56-58 can generally be found, for example, in the specification at page 37, second paragraph.

Support for new claim 60 can generally be found, for example, in Example 30 of the specification.

Support for new claims 62-66 can generally be found, for example, in the specification at page 15, second full paragraph.

Hence, no new matter is added.

Amendments to the claims are generally self-explanatory, being made, for example, to further clarify the claim language or to address issues of antecedent basis.

Support for the amendment to claim 1, can be found, for example, in Example 30 and original claims 9 and 12.

Support for the amendment of claim 4, can be found, for example, in the first full paragraph of page 31 of the specification.

Support for the amendment of claims 6 and 11, can be found, for example, in the first full paragraph of page 36 of the specification.

Method claims 27-33 and 50-54 are withdrawn. However, these method claims have not been cancelled, as they will be entitled to rejoinder upon allowance of the microemulsion/composition claims from which they depend. See MPEP §821.04: "if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined."

Claim rejection—Double Patenting

Claims 1-26 and 34-49 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-30 of copending Application Serial No. 10/211,025.

Independent claim 1 is presently directed to a microemulsion comprising: (a) a metabolizable oil and (b) an emulsifying agent, wherein the emulsifying agent comprises *an ionic detergent*. It is respectfully submitted that this feature is not obvious in view of claims 1-30 of copending Application Serial No. 10/211,025. Claims 2-70 depend from claim 1 and are therefore not obvious in view of claims 1-30 of copending Application Serial No. 10/211,025 for at least the same reasons as is claim 1.

Accordingly, reconsideration and withdrawal of the provisional rejection of claims 1-26 and 34-49 under the judicially created doctrine of obviousness-type double patenting are respectfully requested.

CONCLUSION

It is respectfully submitted that all claims are presently in condition for allowance. Should the Examiner be of the view that an interview would expedite consideration of the application, request is made that the Examiner telephone the Applicants' attorney at (703) 433-0510 in order that any outstanding issues be resolved.

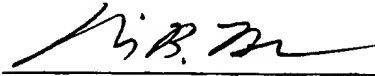
CORRESPONDENCE

Please continue to direct all correspondence to:

Chiron Corporation
Intellectual Property-R440
P.O. Box 8097
Emeryville, CA 94662-8097.

Serial No. 09/914,279

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D.B. Bonham", written over a horizontal line.

David B. Bonham
Attorney for Applicant
Registration No. 34,297

Mayer Fortkort & Williams, PC
251 North Avenue West, 2nd Floor
Westfield, NJ 07090
Tel.: 703-433-0510
Fax: 703-433-2362